

18150

Mr. Lieberman

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D. C. 20548

[Protest of Navy Contracts Award]

FILE: B-203041

DATE: May 19, 1981

MATTER OF: Forte, Inc.

DLG06707

DIGEST:

Allegation that bids may be below cost does not provide basis for rejection, nor does allegation that bids may reflect wage rate below minimum wage determination level under Service Contract Act, since responsibility for administration and enforcement of act rests with Department of Labor and enforcement of contract terms is function of contracting agency, not GAO.

Forte, Inc., protests the award by the Department of the Navy of three contracts under invitation for bids No. N00014-81-B-0001 issued by the Office of Naval Research. The protester asserts that the awardees' bids may reflect wage rates below the minimum wage determination established for this contract by the Department of Labor pursuant to the Service Contract Act, 41 U.S.C. § 351, et seq. (1976).

DLG06708

To the extent the protester's allegation suggests that the awardees will not be able to perform their contracts at their bid prices which are unreasonably low in that they seem to reflect wages at a level below the minimum wage determination, we have held that we are aware of no legal principle on the basis of which an award may be precluded or disturbed because the low bidder submitted a below-cost bid. Karadis Bros. Painting Co., Inc., B-187524, November 22, 1976, 76-2 CPD 440. To properly reject a bid as unreasonably low would require a determination that the bidder is not responsible; our Office does not review protests against affirmative determinations of responsibility absent a showing of fraud on the part of procuring officials, or where the solicitation contains definitive responsibility criteria which allegedly have not been applied. Massa Flooring Co., Inc., B-187974, January 19, 1977, 77-1 CPD 40. Neither exception is alleged in this case.

046954 115268

AGC00009?

In any event, the responsibility for administration and enforcement of the Service Contract Act is vested in the Department of Labor, not with GAO. Massa Flooring Co., Inc., supra. Moreover, whether contract requirements are met is a matter of contract administration which is the function of the contracting agency. The Nedlog Company, B-195963, January 10, 1980, 80-1 CPD 31.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel